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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,864	11/24/2003	Glenn F. Jorgensen	09797042-0020	5169
26263	7590	07/19/2006	EXAMINER	
SONNENSCHEIN NATH & ROSENTHAL LLP P.O. BOX 061080 WACKER DRIVE STATION, SEARS TOWER CHICAGO, IL 60606-1080			HOOK, JAMES F	
		ART UNIT	PAPER NUMBER	
		3754		

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/720,864	JORGENSEN, GLENN F.
	Examiner	Art Unit
	James F. Hook	3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
 - 4a) Of the above claim(s) 11-15 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 and 16-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/24/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I in the reply filed on April 25, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 11-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 25, 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 16-18, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Zaydel. The patent to Zaydel discloses the recited plug assembly where the use of such as a tube plug is merely intended use where the plug of Zaydel is capable of use with tubes as well, comprising an elastomeric tube plug 20' having a generally hollow body elongated along an axis, a rounded front end, open rear end leading to a central axially extending blind hole having a predetermined internal diameter, a non expandable insert member 10 having a diameter greater than the blind

hole, wherein inserting the insert member into the blind hole results plug body enlarging, the insert has outer annular ribs near 12 which can be formed in a Christmas tree configuration which is a reverse taper type serration, an enlarged head 14 limits the insertion of the inserting member into the plug.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kask in view of Zaydel. The patent to Kask discloses the recited plug assembly where the use of such as a tube plug is merely intended use where the plug of Kask is capable of use with tubes as well, comprising an rubber tube plug 14 having a generally hollow body elongated along an axis, a front end, open rear end leading to a central axially extending blind hole having a predetermined internal diameter, a non expandable insert member 30 having a diameter greater than the blind hole, wherein inserting the insert member into the blind hole results plug body enlarging, the insert has a hole 40 for use of a tool and is formed of hard plastic, an enlarged head above 38 and below reference number 30 limits the insertion of the inserting member into the plug, the seal between the insert and the blind hole is seen in the figures to be a tight fit and would inherently result in a water tight fit. The patent to Kask discloses all of the recited structure with the exception of forming the insert and plug of different contrasting colors,

forming the plug with a rounded end, forming it of elastomeric material, and providing the insert with reverse taper ribs. The use of different color materials to form the insert and plug are considered an obvious choice of mechanical design where one skilled in the art would have found it obvious to change the colors to be more pleasing to the eye of the user and allow for more easily seeing the insert. The patent to Zaydel discloses the structure set forth above and it would have been obvious to one skilled in the art to make the plug out of any type of rubbery material including elastomeric material where such is a known material used for such plugs, to form the end of the plug as a rounded end where Zaydel discloses two shaped ends one which is shown also in Kask, and a second configuration having a rounded end thereby teaching the equivalence of using different shaped ends where such would make insertion easier, and to provide the insert with reverse taper ribs to prevent the insert from coming out of the plug easily thereby preventing failure as suggested by Zaydel, and thereby saving money.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kask in view of Zaydel as applied to claims 1-8 and 16-24 above, and further in view of Rapata. The patent to Kask as modified discloses all of the recited structure with the exception of forming the plug blind hole with a constant diameter along it's entire length to enlarge the plug body upon insertion of the insert. The patent to Rapata discloses that it is old and well known in the plug art to form plugs with blind holes having various configurations including with internal ribs, angled walls or straight walls as can be seen in various figures, where figure 11 depicts an embodiment having a constant diameter for it's entire length. It would have been obvious to one skilled in the art to modify the

blind hole in Kask as modified to be formed with a constant diameter for it's length to allow for insertion of an insert member such that the entire blind hole inherently expands as suggested by Rapata as such are equivalent forms the blind hole can be formed in to meet different needs of the user thereby making it more useful and thereby saving money.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Jackson, White, Roehrl, Muller, Thompson, Logsdon, Comeau, Haber, Sims, and Bevacco disclosing state of the art plugs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH